

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14597, of Inez Cushard, pursuant to Sub-section 8207.2 (3108.1, 11 DCMR) of the Zoning Regulations, for a special exception under Paragraph 3101.48 (212, 11 DCMR) to allow use as a parking lot in an R-2 District at premises rear 4926 Wisconsin Avenue, N.W., (Square 1671, Lot 30).

HEARING DATE: February 22, 1987
DECISION DATE: March 7, 1987

FINDINGS OF FACT:

1. The site, known as premises rear 4926 Wisconsin Avenue, N.W., is located at the interior of Square 1671 which is bounded by Fessenden Street to the north, Ellicott Street to the south, Wisconsin Avenue to the east, and 43rd Street to the west. The site is located in an R-2 District.

2. The R-2 District extends to the northwest, west, and south of the site. A C-2-A District is located to the northeast and east of the site along Wisconsin Avenue.

3. The site is quadrangular in shape. The site is surrounded on all sides by a 15 foot wide public alley. The alley located to the east of the site bisects the square from north to south. The alleys located to the north and south of the site connect to 43rd Street. The site is enclosed by a brick wall and bumper guards.

4. By BZA Order No. 12331 dated June 16, 1977, the Board granted the applicant permission to establish the lot. By BZA Order No. 14098 dated May 4, 1984, the Board granted approval to the applicant to continue to operate a commuter parking lot at the site. The lot was closed by order of the Zoning Inspection Branch for not complying with conditions of the Board's order.

5. Pursuant to Sub-section 8207.2 of the Zoning Regulations, the applicant is seeking a special exception to use the site as a parking lot.

6. The lot would be operated by the owner of Duplicate Impressions, a business located at 4926 Wisconsin Avenue. The operator will not be the same operator who previously operated the lot.

7. The proposed parking lot would provide 27 spaces for monthly rental by employees of business as located along Wisconsin Avenue, in the area near the site.

8. The lot would operate Monday through Friday from 7:00 A.M. to 6:00 P.M. The lot would be kept locked when not in use.

9. By memorandum dated July 2, 1987 the Department of Public Works (DPW) reported that the site is in good condition and screened from the adjacent residential neighborhood by a wall and mature trees. The Department of Public Works noted that there are general commercial establishments on Wisconsin Avenue, between Fessenden and Ellicott Street, with no off-street parking facilities. DPW is of the opinion that the proposed lot would lessen parking demand on neighboring streets and serve part of the need for the commercial establishments. DPW had no objections to the proposal provided access to and from the lot is made exclusively via the public alley off Fessenden Street. The Board concurs.

10. The owners of neighboring businesses submitted a letter to the record and testified that their employees were in great need of off-street parking since neighboring streets are restricted to residential parking and vehicles now park illegally blocking the alley.

11. By letter dated May 22, 1987 Advisory Neighborhood Commission (ANC) 3E reported that it voted to oppose the application for the following reasons:

- a) The parcel has been and may again become a late night trouble spot as it was used by patrons of bars which had operated in the area.
- b) The operation of the lot may increase the flow of traffic along 43rd Street, which is a residential street.
- c) Commuters who work in the area do not need the parking lot.

12. Neighbors of the site testified or submitted a form to the record indicating their support of the application.

13. Neighbors of the site submitted letters and a petition to the record in opposition to the application on the grounds that the proposed lot would generate noise and traffic problems.

The Board does not concur with the reasoning of the ANC. The Board finds that the lot will not be used at night. Traffic on residential streets is now generated by

employees seeking parking and the alley is blocked by employees parking illegally. The reopening of the lot should ameliorate these conditions. The Board also finds that a need for the proposed parking has been demonstrated.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking a special exception, the granting of which requires substantial evidence that the applicant has complied with the requirements of Paragraph 3101.48 of the Zoning Regulations. The Board concludes that the applicant has met its burden of proof.

The Board concludes that the parking cannot be located on the same lots as the buildings which it serves and that it is located within 200 feet of the buildings to which the parking is accessory.

The Board further concludes that the special exception can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and it will not affect adversely the use of neighboring property.

The Board concludes that it has accorded to Advisory Neighborhood Commission 3E the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is GRANTED, SUBJECT to the following conditions:

1. Approval shall be for a period of TWO YEARS.
2. Use of the facility shall be limited to employees of businesses located in the 4900 block of Wisconsin Avenue.
3. The hours of operation shall not exceed from 7 A.M. to 6 P.M., Monday through Saturday.
4. The lot shall be secured by a chain, gate or cable during all hours that it is not in operation to prevent unauthorized use.
5. The property shall be cleared of all trash and debris on a daily basis.
6. The masonry walls surrounding the lot shall be repaired and maintained in good condition at all times.
7. Any landscaping provided on the lot shall be maintained in a healthy growing condition and shall have a neat and orderly appearance. Planter boxes shall be maintained in a good state of repair and replaced as necessary.

8. The cable and posts along the eastern boundary shall be maintained in a good state of repair and in an orderly fashion.

9. There shall be no trash containers kept on the lot.

10. The following signs shall be posted and maintained:

- a. A sign giving information on whom to contract in the event of complaint or emergency.
- b. The two substandard parking spaces located in the northern and western areas of the parking lot shall be posted with signs reserving them for compact cars.

11. All areas devoted to driveways, access lanes and parking areas shall be maintained with paving of material forming an all weater impervious surface. All potholes shall be repaired as soon as possible.

12. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.

13. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.

14. All parts of the lot shall kept free of refuse or debris and shall be paved or landscaped.

15. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.


16. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

17. No certificate of occupancy shall be issued until the lot has been brought into compliance with all conditions of this order.

VOTE: 3-1 (Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; Paula L. Jewell, opposed to the motion)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

OCT 7 1987

FINAL DATE OF ORDER: _____

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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